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Commissioner for Patents,  
US DEPARTMENT OF COMMERCE  
US Patent and Trademark Office,  
P.O. Box. 1450  
Alexandria, Virginia 22313-1450

February 9, 2007

Re: Response to US PTO Communication date mailed: 12/06/2006.  
Application Serial No. 10/672,562 Filed: sept. 29, 2003  
For: "EXHAUSTLESS POLLUTANT", Final rejection  
date mailed : 12/06/2006

Honorable Commissioner for Patents,

The Inventor, Gersh Korsinsky, respectfully request using Administrative Power for withdrawal of the final rejections and overturn of the final decisions of the PTO Regarding My Inventions, because this is not appealable matters, by reasons follows:

Clause 8 . The Congress shall have Power\*\*\* To promote the Progress of Science and useful Arts, by securing for limited Times Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

This Clause protects Authors and Inventors only. So, patent owners or investors are constitutional not protected.

Because PTO absolutely not responsible of the quality or enforceability of inventions, and absolutely not assistant inventors, and the government absolutely not contribute to the creation of the invention, therefore, an invention absolutely is an intellectual private property matters, and more, charges substantial money for imposed requirements, other than simple search prior of the inventors respective Writings and Discoveries describing arts.

Therefore, an inventor is must be protected and treated, under His Constitutional Right as a private owner of His Intellectual Property, including Free of Speech, as a Discover of the His invention means, and as Author of the His respective Writing of his discovery means and as Author of His arts, etc.

Therefore, after invention published, any requirements other than clean priority that grounds for not issue patents are matters of the automatic confiscation intellectual private property by PTO officer, even not requires any exponent reasons that supports the PTO actions, including examining procedure, and keeping fees paid to PTO, which raising multiple constitution, federal and common laws questions..

PTO designed traps, which overcoming requires from the inventor's qualification to be experienced professional in special field full time occupied lawyer, professional writer, professional expert in language, science and terminology interpretation, full time occupied inventor, have commercial skill, experience and investment materially and timing resources, have money resources for paying PTO substantial fees, etc., for promote the progress of science and useful arts by confiscation intellectual private property (by confiscation invention) are activity is blatant in its intent and pernicious in its effect are must be considered inherently anti-securing to inventors the exclusive Right to their respective Writings and Discoveries, which constitutional securing, and injurious to the public without any need to determine if the PTO activities has actually injured promote the Progress of Science and useful Arts.

PTO Patterns of processing of application for a patent as follows:

First Office action is rejecting the claims by a standard simple statement for lack of adequate written description, objected the specification and drawings with referring to 35 USC and MPEP, advised to PTO approved lawyers. Without description presumed to be adequate as filed, even, not presented any reasonable and sufficient evidence or reasoning to the contrary, to rebut the presumption as basis to challenge the adequacy of the written description. Which, the examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims.

Second Office action is rejecting the claim by a standard simple statement such as "Applicant presented new matters where claim is supported, nor does there appear to be a written description as filed."; After invention was making public.

Next Office actions repeating rejection upon reply by applicant for lack of written prescription, without review the basis for the rejections in view of the record as a whole including arguments and any submitted by applicant;

Language in description of the inventions reasonably capable of being understood in more than one sense subjected to more than one interpretation without ambiguity exists and can be cleared up by extrinsic evidence. Language words without their signification seems doubtful and uncertain to examiners to understand them. Examiner's statement was not supported by providing evidence. Latent of language is to be distinguished unintelligibility and inaccuracy when language does not include uncertainty arising from the

use of peculiar words, or of common words in a peculiar sense. Language is not appears on the face of the instrument, and not arises from the defective, obscure, or insensible language used.

Language in description of the inventions was constitutionally protected as freedom of expression of writings and discoveries from interfering of imposed laws, rules, conditions and policies, and more, requires professional legal assistance.

Description of the inventions was constitutionally protected as freedom of expression of writings and discoveries, and as intellectual personal property from making public, then later under imposed laws, rules, conditions, policies, substantial fees charges and traps schedules paying, and more, requires professional legal assistance; and preventing any future protections.

Useful arts which is a creativeness effort to produce a lawful physical effects was constitutional protected as freedom of expressions of writings and discoveries which is intellectual personal property, and more, requires costly professional services from interfering of imposed laws, rules, conditions, substantial fees charges.

Description of the inventions was constitutional protected as freedom of expression of writings and discoveries; and intellectual personal property from claims, which is a matter of substantial fees charges for each claim; and claims drafting requires very costly legal professional service, define the invention; any feature of an invention not stated in the claim is beyond the scope of patent protection.

The inventions performs at least some functions that is of benefit to society was constitutional protected as "Useful Arts" which as substantial utility that the basic quid pro quo contemplated by the Constitution, and the benefit derived by the public from inventions, which was complete ignored.

The inventions prior jeopardy by examiners was.

Quid pro quo between the government and inventor to making public invention disclosure and charging substantial fees under numbers named charges, and which Constitutional renders it valid and binding was ignored.

The imposed "non obvious" standard for determine of patentability issue of prior art by the level of ordinary skill in the pertinent art was prevented file applications for pioneer inventions or requires filing separate a large number of applications for patents which is cost-prohibitive for a ordinary creative persons, and vulnerable to assumption of risk infringement and obtain a valid patent, by minor engineering modification.

Quid pro quo between the government and inventor to imposing conditions, other than limited period of the exclusive rights to inventor upon expiration of the period originally specified, and charging substantial fees for securing of the exclusive rights to

the inventors, and which Constitutional renders it valid and binding was ignored.

Quid pro quo between government and inventor to imposing conditions of the processing application after making public of the inventions, including substantial fees charges, and which Constitutional renders it valid and binding was ignored.

Imposing conditions of the processing application, including substantial fees charges, after making public of the inventions, prevents obtaining a patent, is a matter of the confiscation of the intellectual personal property.

Imposing substantial fees charges and conditions and requirements for processing application and patents maintenance which requires professional legal services, time, large money sources, etc. limits the creativeness activities by the number and the qualities, which is not can satisfy of the constitutional requirements.

Processing application for a patent under standard "non higher" ingenuity than the work of a mechanic skilled in the art is a matter of the arts ingenuity values decreasing commercialize.

Imposing conditions of the processing applications, including requirement substantial fees charges and trap schedule paying, causes loss of patentability of an invention by abandoning of the application for a patent, then using "non- more ingenuity" than the work of a mechanic skilled art standard to obtain a patent by simple not creative modification by companies like Microsoft staff is blatant in its intent and pernicious in its effect and injurious to the public creativeness activities and future progress of science and useful arts .

Processing applications for a patent is blatant in its intent and pernicious in its commerce policies effect which injurious to the public creativeness activities and to promote progress of science and useful art.

Imposing of the Manual of Patent Examining Procedure (MPEP) which limits or take away of the exclusive rights to inventors subjected to ignoring Constitutional requirements is blatant in its intent and pernicious in its carry out the policy direction of the Secretary of Commerce in its effect has actually injured in encouraging invention by not rewarding creative persons for their innovations.

Establishment the US Patent and Trademark Office and separating copyrights office within the Department of Commerce is blatant in its intent and pernicious in its carry out the policy of the Secretary of Commerce in its effect, must be considered inherently in anti-encouraging invention by not rewarding creative persons for their innovations and injurious to the public.

Continuously increased numbers USPTO regulations or rules and amendments, subjected to the policy of the Secretary of Commerce, which must be followed before the USPTO, govern the examiners ,inventors and their attorneys and agents are blatant in its

in its intent and pernicious in its carry out the policy of limiting or take away inventions and keeping substantial fees charges and preventing court actions by inventors, must be considered inherently in anti-encouraging invention by not rewarding creative persons for their innovations and injurious to the public.

Director's and other USPTO official Orders, Notices and circulars or instructions giving examiners instructions, information, interpretations, and he like, and other information have been selected for the information of the public, advising what the USPTO will do under circumstances which requires full time professional involvement imposable for ordinary people which is traps an ordinary creative persons to loss inventions and substantial amount of investment are blatant in its intent and pernicious in its effect to carry out policy of limiting or take away inventions and keep substantial fees charges and preventing court actions by creative ordinary persons, must be considered inherently anti-encouraging invention by not rewarding creative ordinary persons for their innovations and injurious to the public.

91% of creative individual persons applications Decisions are not appellatively and very costly and requires professional legal assistant make appeal to the Board of Patent Appeals and Interferences cost- prohibitive worthless for ordinary creative persons is blatant in its intent and pernicious in its effect to carry out policy to limiting or take away inventions and keep substantial fees charges and preventing court actions by inventors, must be considered inherently anti-encouraging invention by not rewarding creative persons for their innovations and injurious to the public.

Imposed conditions processing applications for a patent and securing to inventors exclusive right are blatant in its intent and pernicious in its carry out of the Secretary of Commerce polices effect, which injurious to the public creativeness activities and future progress of science and useful arts.

Imposed conditions processing applications for a patent and securing right to inventors are blatant in its intent and pernicious in its carry out protection of the commercial activities from inventor's legal actions by legalization "infringement" by limiting or complete taking away securing to inventors under numbers designed traps, including requires substantial fees charges for securing rights to inventors effect, which future injurious public creativeness activities.

Congress passed statutes and approved Acts, other than limiting of the period upon the expiration of the period originally specified, which limiting or taking away Constitutional rights and protections to inventors may exceed of the Scope of the power which requires Constitutional test by Court.

Congress exceed the scope of its power by not vested by original Constitutional clause, which limited to the duration of the right granted to inventors, which authors also, to legal protect their writings and discoveries from patent infringement only, for promoting science and the useful arts. Patent infringements is natural defined the usefulness of the arts of an invention.

Because Constitutional only the writings and discoveries may be protected, the disclosure of an invention that defined of the invention must be in writing, which cannot be physical entity.

Therefore, Constitution uses the term "discovery" rather than "invention", a protection may granted for the discovery of a hitherto unknown phenomenon of nature as long be disclosed in writing

Because, the written disclosure of a discovery of a unknown phenomenon is contained progress which its progress must be the central purpose of the Constitutional requirements.

Therefore, Constitutional protect-able invention is a mental achievement for an idea that useful physical form be taken in writing.

Therefore, Constitutional uses the terms "discovery" and useful arts for limiting the low level of the standard of the requirements for be protected to satisfy of the constitutional requirements "to promote the progress of science and useful arts..."

Therefore, Court has held that an invention must display "more ingenuity ... than the work of a mechanic skilled in the art", which Congress despite the facts.

Therefore, lowering patentable standard level of an invention is despites the facts that the Congress may exceed its power to lowering of the quality to promote the progress science and useful arts, which is central purpose of the Constitutional protection right to inventors.

Congress Acts of 1952 required an innovation be of a "non-obvious" nature which is alteration of the standard of patentability was perceived as overruling previous Supreme Court cases requiring perhaps a higher for obtain a patent

The only US Court of appeals defined exclusively by its jurisdiction rather than geographical boundaries authorized to uniform rulings in related to patents, commerce and trade cases; and to exclusively qualify Attorneys and Counselors for admission to the Bar of this Court and before USPTO caused a closed inner circle allowing Congress to exceed the scope of the Power of the approved USPTO activities with preventing to become public widely known; caused some blatant type nature in its intent and pernicious in its effect to limiting or take away Constitutional protected exclusive right to inventors ignoring Constitutional requirements, must be considered inherently anti-encouraging invention by not rewarding creative ordinary persons for their innovations and causing loss of their investments including substantial fees charges paid to USPTO, efforts, time etc. ; which is future injured creative persons activities.

Because exclusive rights of inventors constitutional protected, the Court, not government officer, obligation to enforce upon limited times originally established by

Congress as is a common enforcement. Because, an invention is not some owned granted to an individual, therefore, a patent right for an invention which for enforcing exclusive rights cannot be applied legal nature from other types patents, such Land patents or Mining patents by which the government grants public land or property or some privilege of public domain to an individual with conditions.

And Constitutional Standard for patentability and invention infringement matters must be by Court for clarity weighing.

The Constitutional clause is the foundation upon the national patent laws rest, although Acts of the Congress it uses neither of those terms, despite the meanings, the significance and the importance. So, Court must review of the constitutionality of the legislation activities.

Because an invention is a self created private intellectual property of a mental achievement of a combination of arts, discoveries and writings, the right, granted to inventors, are combined authors and inventors rights requires for legal protection them against invention infringement, which are subjected to legal matters enforcement against invention infringement, therefore, judicial decision only must enforce by using and defining of the legal complicated terms of laws rest; and purpose of legislation power may not exceed power limited to duration of the period originally specified of the right granted for carry out promote the progress of science and useful arts only; and purpose of the executive power may not exceed power limited to invention legal recording only.

The patentability and the scope and content of the prior art of the discovery of the Invention constitutionally protected as freedom of expression of writings, discoveries and arts from imposed "obvious" standard, the differences between the prior art and the claims at issue and the top limited level of the creativeness by the level of ordinary skill in the pertinent art, contains "high obvious danger" and "high obvious risk" to lost of the invention in processing of the application for a patent

The patentability and the scope and content of the prior of the discovery under Patent Act requires that an innovation be of a "non-obvious nature" without established and defining of the requirements to the recognizing of the standards of the each of the pertinent arts, and skill and experience of a person having ordinary skill and experience in the pertinent and actually without his review and without providing any report for challenging by inventors, contains "high obvious danger" and "high obvious risk" to lost of the invention in processing of the application for a patent.

Numerous traps from imposed conditions laws, regulations, policies, substantial fees charges, etc. making unpatented inventions during processing applications for a patent, including invention disclosure public, and imposing patent maintenance substantial fees charging during the patent life, as "efficient operation of the federal patent system upon substantially free trade in publicly known unpatented design

and utilitarian conceptions” inner-side the contemplation of the imposed patent scheme; when States are forbidden to do is to “offer protection to intellectual creations which would otherwise remain unprotected as a matter of federal law, and when state law “aimed directly at preventing the exploitation [unpatented] design is invalid as impinging on an area of pervasive federal regulation ; are blatant in its intent and pernicious in its effect must be considered inherently policy anti-encouraging inventions; which is unconstitutional, which unfair victimized inventors that cannot overcome of the imposed conditions; which requires substantial materially resources and professional legal costly services involvement, and which actually injured future promote progress of useful arts, and which are Constitutional goals.

Congressional requirements on patentability after the invention was making public, then, are conditions and tests that must fall within the constitutional standard which by constitutional command must ‘ promote the Progress of .. useful Arts” by encouraging invention by protecting creative persons of their respective writings and discoveries, however, the Court, rather than Congress, must test the satisfy of the Constitutional standard of the securing to inventors as authors also the exclusive right to their writing and discoveries..

The standard of patentability is a constitutional standard, and a the question of the validity of a patent is a question of law for secure protection to inventors exclusive right to their self created without any government contribution of a private intellectual property under general , special and common laws. The function of the Commissioner of PTO in issuing letters patent is deemed not to be quasi-judicial character. Hence an act granting a right of appeal from the Commission to the Court of Appeals which requires costly professional legal services cost-prohibitive for ordinary creative persons not Constitutional as conferring executive power upon a judicial body for high possible risk taking away private self created intellectual property without any government contribution and without just compensation

A inventors right to their filed application for a patent of inventions, particular, after make disclosure of the invention public, however, be subjected, by bill in equity, to payment of a judgment debt of the inventors; or not disclosure invention must be returned to the inventors. *Ager v. Murray*, 105 US 126(1882).

Letters patent for a new invention or discovery in the arts confer upon the patentee an exclusive property in the patented invention which cannot be appropriated or used by the Government without just compensation.

*James v. Campell*, 104 US 356,358 (1882). *US v. Burna*, 79 US (12 Wall.)246,252 (1871); *Cammeyer v. Newton*, 94 US 225,234 (1877); *Hollister v. Benedict Manufacturing Co.*, 113 US 59,67 (1885); *US v. Palmer*, 128 US 262,271 (1888); *Balknap vCongress* under an existing patent, only can modify provided vested property rights that inventors has granted to others or reinvest in him rights of property that they had previously conveyed. *Bloomer v. Mcquewan*, 55US (How.)539,553(1852).



Because, the rights the present statutes confer are subjected to the antitrust laws, though it can hardly be. Shild, 161 US 10,16 (1896)

said that the cases in which the Court has endeavored to draw the line between the right claimable by inventors and the kind of monopolistic privileges which are forbidden by those acts exhibit entire consistency in their holdings.

Motion Picture Co. v. Universal Film Co. 243 US 502 (1917); Morton Salt Co. v. Suppiger Co., 314 US 488(1942); US v. Masonite Corp. , 316 Us 265(1942); US v. New Wrinkle , Inc, 842 US 371 (1952); Walker Process Equip. ,Inc. v. Food Mach. & Chem. Corp. , 382 US 172 (1965).

Congress may exceed power by ignoring Constitutional requirements "to promote the Progress of Science and useful Arts..." by refusing in encouraging invention by rewording, even victimizing, creative persons under imposed conditions policies and laws.

Congress may exceed power by forbidding protection right to creative persons for their innovations, which was applied for a patent, which processing application for a patent under imposed conditions, including not timely paid substantial fees charges or penalties, etc, recognized invention not patentable, by outside of federal patent scheme, which are "necessary to promote arts" as an intentional ignoring of the Constitutional requirements.

Dated: February 9, 2007  
Brooklyn, New York

Respectfully submitted,



Gersh Korsinsky,  
Inventor- Applicant-Prose

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1236 49<sup>th</sup> Street, Apartment 4B,  
Brooklyn, New York 11219

718-435-1107



Application No. 10/672,562,  
Filing Date: 09/29/2003  
Conformation No: 8840  
Art Unit: 3749  
Paper No. 20061212

December 26, 2006

## RECORDATION SUBSTANCE OF THE INTERVIEW

### Participants:

- (1) Examiner Kenneth B. Rinehart.
- (2) Applicant Gersh Korsinsky.

Date of interview: 12 December 2006.

Telephonic Interview was requested by applicant Gersh Korsinsky.

Claims 1-6 discussed.

Identification of prior art discussed: Tseng. Clay.

Agreement with respect of the claims: N/A.

Applicant was provided the patent number for Tseng which Office communications was not contained.

Applicant requested from examiner identification of the new matters in responsive to communications, which contains in such full, clear, concise as to enable overcome examiner's rejections only. For an example examiner was asked finding new matters in collecting pollutant between difference sources, such cars and boats or power stations, power equipments (cranes), etc for put away pollutant in real time.

Applicants argue that usability or application find for the invention is not presenting new materially matters, a new presenting use without taking new physical form. The request was simple ignored.

Applicant requested to providing reasons why a person skilled in the present invention's arts at the time the application was originally filed would obvious to recognized that inventor not was in possession of the invention as claimed in view of the application as filed and published, and after clearing find new matters for final rejection.. Request was ignored

Applicant requested to provide a report from the person in reference to the present invention. Request was ignored.

Applicant requested an identification of the requirements of the field, skill and experience of ordinary person in the present invention art. Request was ignored.

Applicant requested a reasonable interpretation why Teng and Clay: Haile S disclosure garbage incinerators with some limited quasi-purified processing can anticipate the subject matters of the real time pollutant collection matters in the present invention, instead of a general simple statement provided in communication 12/06/2006, such as "Applicants arguments 2/22/05 have been fully considered but they not persuasive . The applicant argues that Teng cannot anticipate the claim limitation. The examiner respectfully disagrees, as claims in a pending application should be given their broadest reasonable interpretation. The examiner does not believe that it is unreasonable for the reference to read on the claim limitation ". Such general Statement is not a sufficient reason to support final rejection. The request was ignored. Then examiner was asked the arts unit identification and how long works. The answer 8 years for incinerators arts

Applicant requested to use for examining the written description language of the present invention, which was used for publishing of the invention. Request was ignored.

Applicant requested a reasonable interpretation how a person having ordinary skill in the pertinent art without legal skill and experience (not a lawyer) can be a standard to identify the claim limitation at issue in the time the application was filed would have recognized that the inventor was or not in possession of the invention as claimed in view of the disclosure of the application as filed or amended subjected to new matters. Request was ignored.

Applicant requested a reasonable interpretation how examiner not interfering with author's written description of the invention and securing to the inventors right; and final rejection not confiscate the invention. Request was ignored.

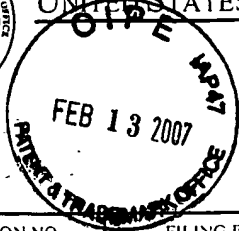
Applicant requested a reasonable interpretation why the invention was published, before recognizing patentability. Request was ignored

Respectfully Submitted,

Gersh Korsinsky, applicant



# UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/672,562

09/29/2003

Gersh Korsinsky

8840

7590  
GERSH KORSINSKY  
1236 49th Street, Apartment 4B  
Brooklyn, NY 11219

12/20/2006

EXAMINER

RINEHART, KENNETH

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

12/20/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.



## Interview Summary

Application No.

10/672,562

Applicant(s)

KORSINSKY ET AL.

Examiner

Kenneth B. Rinehart

Art Unit

3749

All participants (applicant, applicant's representative, PTO personnel):

(1) Kenneth B. Rinehart.

(3) \_\_\_\_\_.

(2) Mr. Gersh Korsinsky.

(4) \_\_\_\_\_.

Date of Interview: 12 December 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☒ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1-6.

Identification of prior art discussed: Tseng, Clay.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: see attached.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

Art Unit: 3749

The applicant was provided with the patent number for Tseng. This was followed by an approximately ½ hour telephone conversation. As far as this examiner could determine, the applicant was interested in the requirements for an individual of ordinary skill in the art. The examiner provided the applicant with the citation for Graham V. Deere which discusses the analysis performed by one of ordinary skill. No agreement was reached on the application.

  
KENNETH RINEHART  
PRIMARY EXAMINER

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.